

27053/3676  
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PTO/SB/21 (09-06)

Approved for use through 03/31/2007. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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## TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

8

Application Number	09/393,482
Filing Date	September 10, 1999
First Named Inventor	Jerry H. Chisnell
Art Unit	3676
Examiner Name	Carlos Lugo
Attorney Docket Number	FTP139A US

### ENCLOSURES (Check all that apply)

- |  |   |  |
|--|---|--|
| <input checked="" type="checkbox"/> Fee Transmittal Form<br><input checked="" type="checkbox"/> Fee Attached<br><input type="checkbox"/> Amendment/Reply<br><input type="checkbox"/> After Final<br><input type="checkbox"/> Affidavits/declaration(s)<br><input type="checkbox"/> Extension of Time Request<br><input type="checkbox"/> Express Abandonment Request<br><input type="checkbox"/> Information Disclosure Statement<br><br><input type="checkbox"/> Certified Copy of Priority Document(s)<br><input type="checkbox"/> Reply to Missing Parts/<br>Incomplete Application<br><input type="checkbox"/> Reply to Missing Parts<br>under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)<br><input type="checkbox"/> Licensing-related Papers<br><input checked="" type="checkbox"/> Petition<br><input type="checkbox"/> Petition to Convert to a<br>Provisional Application<br><input type="checkbox"/> Power of Attorney, Revocation<br>Change of Correspondence Address<br><input type="checkbox"/> Terminal Disclaimer<br><input type="checkbox"/> Request for Refund<br><input type="checkbox"/> CD, Number of CD(s) _____<br><input type="checkbox"/> Landscape Table on CD | <input type="checkbox"/> After Allowance Communication to TC<br><input type="checkbox"/> Appeal Communication to Board<br>of Appeals and Interferences<br><input type="checkbox"/> Appeal Communication to TC<br>(Appeal Notice, Brief, Reply Brief)<br><input type="checkbox"/> Proprietary Information<br><input type="checkbox"/> Status Letter<br><input checked="" type="checkbox"/> Other Enclosure(s) (please identify<br>below):<br>Postcard |
|--|---|--|

Remarks

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	VanOphem & VanOphem, P.C.		
Signature			
Printed name	Remy J. VanOphem		
Date	March 21, 2007	Reg. No.	27053

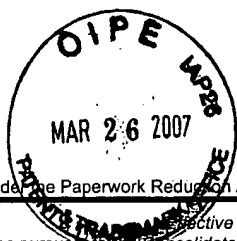
### CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature			
Typed or printed name	Remy J. VanOphem	Date	March 21, 2007

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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PTO/SB/17 (02-07)

Approved for use through 02/28/2007. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Effective on 12/08/2004.  
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

# FEE TRANSMITTAL

## For FY 2007

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 200.00

### Complete if Known

Application Number	09/393,482
Filing Date	September 10, 1999
First Named Inventor	Jerry H. Chisnell
Examiner Name	Carlos Lugo
Art Unit	3676
Attorney Docket No.	FTP139A US

### METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_

☒ Deposit Account Deposit Account Number: 22-0212 Deposit Account Name: VanOphem & VanOphem, P.C.

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee  
☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

### FEE CALCULATION

#### 1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	0
Design	200	100	100	50	130	65	0
Plant	200	100	300	150	160	80	0
Reissue	300	150	500	250	600	300	0
Provisional	200	100	0	0	0	0	0

#### 2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180
<b>Total Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>
- 20 or HP = _____ x _____ = 0		
HP = highest number of total claims paid for, if greater than 20.		
<b>Indep. Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>
- 3 or HP = _____ x _____ = 0		
HP = highest number of independent claims paid for, if greater than 3.		

#### 3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets - 100 = \_\_\_\_\_ / 50 = \_\_\_\_\_ (round up to a whole number) x Fee (\$)

Fees Paid (\$)

#### 4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): 37 CFR 1.18(e)- filing an application for patent term adjustment

200.00

#### SUBMITTED BY

Signature		Registration No. (Attorney/Agent) 27053	Telephone (586) 739-7445
Name (Print/Type)	Remy J. VanOphem	Date March 21, 2007	

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



PATENT APPLICATION  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 09/393,482  
Applicant: Jerry H. Chisnell  
Filed: September 10, 1999  
Title: Reinforcement for a Hose Coupling

Art Unit: 3676  
Examiner: Carlos Lugo

Docket No.: FTP139A US

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**Petition under 37 C.F.R. §1.181**

Mail Stop Patent Ext.  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

By way of this Petition under 37 C.F.R. §1.181, the Applicant of the above-identified patent application hereby requests review of the patent term extension identified in a Notice of Allowance and Fee(s) Due, dated January 22, 2007.

The present application was filed after June 7, 1995, but prior to May 29, 2000, and therefore falls under the provisions of former 35 U.S.C. §154(b) for patent term extensions. The Applicant hereby requests review of the patent term extension identified in the Notice of Allowance and Fee(s) Due, dated January 22, 2007.

03/27/2007 FMETEK11 00000023 09393482

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### **STATEMENT OF FACTS**

As shown by the USPTO Private PAIR records, a decision on appeal was mailed to the Applicant on June 15, 2004, affirming the Examiner. On August 16, 2004, a Request for Rehearing was timely filed with the U.S. Patent Office in response to the appeal decision. On October 1, 2004, the Patent Office mailed a Notice of Allowance. On October 21, 2004, Applicant's attorney contacted Examiner Carlos Lugo by telephone. Examiner Lugo instructed Applicant to file a communication in the Patent Office requesting withdrawal of the application from issue because of the pending Request for Rehearing that was timely filed. Applicant's attorney sent a communication, dated October 21, 2004, to the Patent Office stating that the Notice of Allowance was premature because of the Request for Rehearing that was previously filed. Applicant's attorney also sent a copy of the communication via facsimile to Examiner Lugo on October 21, 2004.

On December 30, 2004, Applicant's attorney began regularly checking Private PAIR for the status of the application. On March 16, 2005, Applicant's attorney spoke with Examiner Carlos Lugo who stated that the application has been passed on to Supervisory Patent Examiner Daniel Studola. On March 22, 2005, in a telephone interview, Examiner Studola stated that he was attempting to locate the original Request for Rehearing that was filed on August 19, 2004. Applicant's attorney continued to check PAIR weekly for the status of the application. On April 10, 2005, Applicant's attorney placed a follow-up call to Examiner Studola who advised Applicant that the incorrect serial number was put on the Request for Rehearing that was filed on August 19, 2004.

According to PAIR, on August 5, 2005, the file was marked lost. It was not until December 22, 2005, that Applicant's attorney received a Reconstruction Notice under 37 C.F.R.

§1.251 from the Patent Office. Applicant's attorney replied to the Reconstruction Notice on March 21, 2006 by sending a complete copy of the prosecution history. From October 21, 2004 to March 21, 2006 is 516 days that Applicant's attorney received no communication from the Patent Office.

On December 13, 2006, Applicant's attorney finally received a decision on the Request for Rehearing, which is another 268 days to receive a response to the Rehearing Request. Therefore, a total of 784 days had passed since Applicant's attorney filed a communication with the Patent Office stating that the first Notice of Allowance was mailed prematurely and finally receiving a decision on the Request for Rehearing.

This additional and extraordinary delay of 784 days is not accounted for in the current patent term extension indicated in the Notice of Allowance and Fee(s) Due as calculated under form 35 U.S.C. §154(b), but nonetheless is a reduction in Applicant's patent term that occurred as a result of the entire file being misplaced or lost and the delay in responding to the Request for Rehearing after the file was copied and supplied to the Patent Office.

### **POINTS TO BE REVIEWED**

Even though Applicant inadvertently used the wrong serial number on the Request for Rehearing, it does not explain why the entire patent application file was lost. The Decision on Appeal was mailed from the Patent Office on June 15, 2004 and Examiner Lugo mailed a Notice of Allowance on October 1, 2004 in response to the appeal decision which is within the four months requirement according to 35 U.S.C. 154(b)(1)(A)(iii). However, on October 21, 2004, Applicant mailed and faxed a communication to Examiner Lugo stating that a Request for Rehearing had been previously filed. It was not until December 22, 2005 that the Patent Office

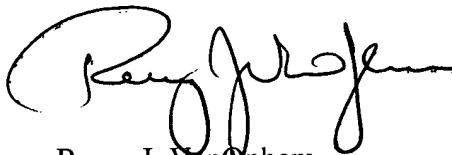
finally requested a copy of the patent application because the entire file had been lost. Applicant's attorney continually monitored the status of the application using Private PAIR and followed up by telephone with Examiner Lugo and Supervisory Patent Examiner Studola.

**ACTION REQUESTED**

In view of the above, Applicant invokes the supervisory authority of the Director to review the circumstances that resulted in the extraordinary delay that occurred during the prosecution of Applicant's application. In particular, Applicant requests that the Director consider the policy goals embraced by the U.S. Patent and Trademark Office and reflected in the patent term extension and adjustment rules, and respectfully requests that a patent term extension of 784 days to take into account the extraordinary and additional delay of the prosecution of this patent application.

Respectfully submitted,

VANOPHEM & VANOPHEM, P.C.



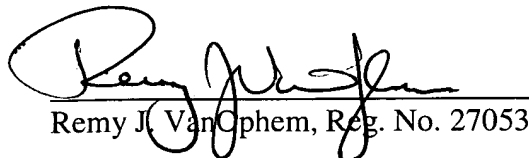
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Attorney Docket No. FTP139A US  
RVO/ndt

**Certificate under 37 CFR §1.8(a)**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Patent Ext., Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on March 21,  
2007

Date: March 21, 2007



Remy J. VanOphem, Reg. No. 27053